

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:20-cv-00165

Johnny Len Kellogg,
Plaintiff,

v.

Maxey Cerliano,
Defendant.

ORDER

Plaintiff Johnny Len Kellogg, an inmate at Gregg County Jail proceeding pro se, filed this lawsuit pursuant to 42 U.S.C. § 1983. Doc. 1. This case was referred to Magistrate Judge K. Nicole Mitchell. Doc. 3. On June 12, 2020, defendant Maxey Cerliano filed a motion for summary judgment, arguing that plaintiff failed to exhaust his administrative remedies. Doc. 15. Plaintiff responded by filing his own cross motion for summary judgment. Doc. 16.

Judge Mitchell entered a report and recommendation that defendant's motion for summary judgment should be granted and that plaintiff's motion should be denied. Doc. 17. Plaintiff received the report on October 16, 2020, and has not filed any objections. *See* Doc. 18.

When there have been no timely objections to a magistrate judge's report and recommendation, the record is only reviewed for clear error. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having reviewed the magistrate judge's report, and being satisfied that it contains no clear error, the court **accepts** its findings and recommendation. Defendant Maxey Cerliano's motion for summary judgment (Doc. 15) is **granted**. Plaintiff's cross motion for summary judgment (Doc. 16) is **denied**. The above-styled case is **dismissed without prejudice**. The clerk of court is **directed** to close this case.

So ordered by the court on November 23, 2020.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge